

p lynnucleotide referred to is the isolated polynucleotide f Claims 103, 104, and 105. Claim 107 has been amended to clarify that the h st cell is one that is a cultured genetically engineered host cell so as to comport with the utility requirements of 35 U.S.C. § 101.

Support for the amendments to the claims can be found in the specification as originally filed. In particular, support for the amendment to Claim 103 can be found, for example, at Figure 5 of the specification. Applicants respectfully submit that it is the C-terminal 86 amino acids (*i.e.*, specifically amino acids 71-157 of SEQ ID NO: 10) which are encoded by nucleotides 211-468 of the fchd605 nucleotide sequence set forth in SEQ ID NO: 9. Support for the amendment to Claim 105 can be found, for example, at page 8, lines 10-14 of the specification. Support for the host cells of Claim 107 being cultured can be found, for example, in the specification at page 108, lines 31-35.

New claims have been added to more particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically new Claims 108-117 are directed to particular embodiments of fchd605 polynucleotides, vectors and host cells containing such polynucleotides, and to methods of producing the polypeptide encoded by such polynucleotides. Support for the new claims can be found in the specification as originally filed.

No new matter is introduced by the above-described amendments. Thus, their entry is respectfully requested. Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

II. CLAIM REJECTIONS

A. The Rejections Under 35 U.S.C. §112, First Paragraph, Should Be Withdrawn

At page 2 of Paper No. 27, Claims 103 and 105-107 are rejected under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The rationale for the Examiner's rejection is set forth on pages 2-4 of Paper No. 27. Briefly, the Examiner contends that the specification allegedly does not contain adequate written description support for the genus of polynucleotide sequences comprising nucleotides corresponding to coding regions, introns, 5' and 3' regulatory elements, and untranslated regions of genes, full length encoded cDNA and/or genes, and structurally unrelated DNAs, and partial DNA sequences of genes other than nucleotides 211-468 of SEQ ID NO:9. Applicant respectfully traverses the rejection.

Without acquiescing in the propriety of the rejection, and solely to advance prosecution, Applicant has amended Claim 103 to more particularly point out and claim that which Applicant regards as the invention by reciting that wherein said isolated polynucleotide encodes at least amino acids 71-157 of the fchd605 polypeptide depicted in SEQ ID NO:10, and wherein the fchd605 polypeptide is upregulated in monocytes under conditions of oxidized LDL treatment. Applicant has also amended Claim 105 to now recite that the isolated polynucleotide which hybridizes under the stated stringent hybridization conditions must encode a polypeptide which is upregulated in monocytes under conditions of oxidized LDL treatment. Thus, in view of the amendment to Claims 103 and 105, Applicant

respectfully submits that the specification does indeed provide written description support for the invention as now claimed.

Accordingly, Applicants believe that this ground of rejection with respect to Claims 103, and 105-107 has been overcome, and withdrawal thereof is respectfully requested.

At page 4 of Paper No. 27, Claims 103 and 105-107 are rejected under 35 U.S.C. §112, first paragraph, because the specification allegedly does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with the claims. The rationale for the Examiner's rejection is set forth on page 4 of Paper No. 27. In short, the Examiner contends that since the claimed invention is allegedly not supported by a sufficient written description, one skilled in the art would not know how to use the invention without undue experimentation. Applicant respectfully traverses the rejection.

Without acquiescing in the propriety of the rejection, and solely to advance prosecution, Applicant has amended Claim 103 to more particularly point out and claim that which Applicant regards as the invention by reciting that wherein said isolated polynucleotide encodes at least amino acids 71-157 of the fchd605 polypeptide depicted in SEQ ID NO:10, and wherein the fchd605 polypeptide is upregulated in monocytes under conditions of oxidized LDL treatment. Applicant has also amended Claim 105 to now recite that the isolated polynucleotide which hybridizes under the stated stringent hybridization conditions must encode an fchd605 polypeptide which is upregulated in monocytes under conditions of oxidized LDL treatment. Thus, in view of the amendment to Claims 103 and 105, Applicant respectfully submits that the specification does indeed enable the invention as now claimed.

B. The Rejection Under 35 U.S.C. §112, Second Paragraph, Should Be Withdrawn

At page 5 of Paper No. 27, Claim 106 is rejected under 35 U.S.C. §112, second paragraph as being indefinite in the recitation of "peptide comprising the polynucleotide". Applicant has amended Claim 106 to correct the inadvertent recitation of "peptide comprising". Applicant has also amended Claim 106 to now recite the term "isolated" to clarify that the polynucleotide referred to is the isolated polynucleotide of Claims 103, 104 or 105. In view of the amendments to Claim 106, Applicant respectfully requests that the rejection under 35 U.S.C. § 112, second paragraph be withdrawn.

CONCLUSION

Applicant respectfully requests that the amendments and remarks above be entered and made of record in the file history of the instant application. Applicant believes that each ground for rejection or objection has been successfully overcome or obviated and that the application is in condition for allowance. Early notification to this effect is earnestly solicited.

Should the Examiner not agree that all claims are allowable, then a personal or telephonic interview is respectfully requested to discuss any remaining issues and accelerate the eventual allowance of this application.

Respectfully submitted,

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Enclosure